

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

UNIVERSITY OF LA VERNE  
Employer

and

Case 21-RC-115880

SERVICE EMPLOYEES  
INTERNATIONAL UNION  
Petitioner

ORDER

The Employer's Request for Review of the Acting Regional Director's decision to impound the ballots pending resolution of the unfair labor practices charges raises no substantial issues warranting reversal of the Acting Regional Director's determination. Accordingly, the Acting Regional Director's decision is affirmed.<sup>1</sup>

PHILIP A. MISCIMARRA, MEMBER

KENT Y. HIROZAWA, MEMBER

HARRY I. JOHNSON, III, MEMBER

Dated, Washington, D.C., April 4, 2014.

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<sup>1</sup> Member Miscimarra agrees that the Acting Regional Director did not abuse his discretion by impounding the ballots under the Board's current blocking charge procedures, although they have been criticized on the ground that they "allow a party to dictate whether or not the election ballots will be impounded simply by choosing between two different procedural mechanisms for raising allegations of election misconduct"—i.e., unfair labor practice charges versus post-election objections. *Bally's Atlantic City*, 338 NLRB 443, 443 (2002) (Member Cowen, dissenting). He finds it premature to reconsider this issue here, in light of the Board's solicitation of comments concerning possible changes to the blocking charge doctrine as part of the Board's recent Notice of Proposed Rulemaking regarding representation elections. See 79 Fed. Reg. 7334-7335 (Feb. 6, 2014).